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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,091	06/15/2001	Kiril A. Pandelisev	PHOENIX SCIENTIFIC	7262
	7590	05/24/2004	EXAMINER	
James C. Wray Suite 300 1493 Chain Bridge Road McLean, VA 22101			HOFFMANN, JOHN M	
			ART UNIT	PAPER NUMBER
			1731	
DATE MAILED: 05/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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EXAMINER

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40520

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Commissioner for Patents

The reply filed on 30 April 2004 is not fully responsive to the prior Office Action because: it fails to provide a proper response to the Office action of 9/24/03. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Furthermore the reply filed on 30 April 2004 fails to include a complete or accurate record of the substance of the 27 April 2004 interview.

As to the request for Examiner to conform the elected species to the elected claims: such is not understood. Claims are NOT elected – only species are. Furthermore, Applicant has already elected the species. As indicated previously, a shift in the species is not permitted once prosecution has begun.

As to the request as to what would be acceptable to examiner: The minimum requirement: a claim which is directed to the elected species, or which is generic to the elected species.

As to the propriety of the original restriction/election requirement: the issue appears to be moot. This is because the requirement was made FINAL in the action of 9/24/03 and the period to petition has expired. Regardless, Examiner reviewed all the arguments: none was convincing. Most of the arguments were previously addressed in the paper of 3-31-04. Other arguments were not understood. Applicant's desire to have an election based on the drawings is understood, however such would extend prosecution and would create an undue burden on the Office.

Many of the present assertions are inaccurate.

As to the claims being allowable: Examiner has not even searched the present claims – which are directed to non-elected species. Therefore, the claims are not presently deemed allowable.

As to the request for making a final action: When claim(s) are presented which conform to the elected species, a final office action or a notice of allowance will be mailed.

As to making a petition: to examiner, it appears the only relevant petition would be to a petition to reverse Examiner's holding that the present claims fail to read on the elected species. Such a petition does not require a final office action.

JOHN HOFFMANN
PRIMARY EXAMINER
GROUP 1300